

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

ERIBERTO MORENO,
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v.
DAVID B. WILLIAMS and
LANDSTAR RANGER, INC.
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7:19-cv-00179
NO. _____

NOTICE OF REMOVAL OF DEFENDANTS

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW DAVID B. WILLIAMS and LANDSTAR RANGER, INC., Defendants herein, and file this Notice of Removal (“Notice”) of this suit from the 109th District Court in and for Andrews County, Texas, Cause No. 21,647, to the United States District Court for the Western District of Texas, Midland/Odessa Division under 28 U.S.C. §§1441, 1446 and 1332(a), and respectfully shows the Court as follows:

I.

INTRODUCTION

1. Plaintiff is Eriberto Moreno (“Plaintiff”). Defendants are David B. Williams (“Defendant Williams”) and Landstar Ranger, Inc. (“Defendant Landstar”). Defendant Williams and Defendant Landstar will be collectively referred to herein as “Defendants.”

2. On June 19, 2019, Plaintiff filed his Original Petition, asserting claims and causes of action for negligence, respondeat superior and agency, and joint and several liability arising from a vehicular accident that allegedly occurred on or about June 21, 2018, at the intersection of West State Highway 115 and SW Loop 1910 in Andrews County, Texas. Plaintiff has sued Defendants in the 109th District Court in and for Andrews County, Texas, in a suit under cause number 21,647 and styled *Eriberto Moreno v. David B. Williams and Landstar Ranger, Inc.* (the “Andrews County Suit”).

3. Defendant Landstar was served in the Andrews County Suit by certified mail on June 27, 2019. Defendant Williams was served in the Andrews County Suit on June 29, 2019. Thus, Defendants timely file this notice of removal within the 30-day time period required by 28 U.S.C. §1446(b), (b)(1).

4. Defendants have not filed answers in the Andrews County Suit.

**II.
GROUNDS FOR REMOVAL**

5. Defendants timely file this Notice of Removal pursuant to 28 U.S.C. §§1441 (a), (b), 1446, and 1332(a). Removal of the Andrews County Suit to this District and Division is proper because this Court has federal diversity jurisdiction in accordance with 28 U.S.C. §1332(a)(1) because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states. 28 U.S.C. §1332(a)(1).

A. Citizenship of the Parties

6. At the time of the filing suit and at the time of removal:

- a. Plaintiff Moreno is an individual who is a resident of and citizen of the State of Texas;
- b. Defendant Landstar is a foreign company organized or formed under the laws of the State of Delaware and has its principal place of business at 13410 Sutton Park Drive, South, Jacksonville, Florida 32224, and, therefore, is a citizen of the States of Delaware and Florida; and
- c. Defendant Williams is an individual who is a resident of and citizen of the State of Kentucky.

B. Removal is proper because there is complete diversity of citizenship as between Plaintiff and Defendant

7. Removal of this suit is proper under 28 U.S.C. §1332(a)(1) because there is complete diversity of citizenship between Plaintiff and Defendants at the time of filing suit and the time of removal, shown as follows:

- a. Plaintiff is a citizen of the State of Texas;

- b. Defendant Landstar is a citizen of the States of Delaware and Florida; and
- c. Defendant Williams is a citizen of the State of Kentucky.

Thus, there is complete diversity of citizenship between Plaintiff and Defendants because neither Defendant (citizens of Delaware, Florida, and Kentucky) is a citizen of the same state as Plaintiff (citizen of Texas).

C. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs

8. Removal of this suit is proper under 28 U.S.C. §1332(a) because the amount or matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

9. In paragraph 2 of Plaintiff's Original Petition attached hereto as Exhibit A-1, Plaintiff alleges that "Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000.00." Plaintiff's Original Petition, a true and correct copy of which is contained in the state court records of the Andrews County Suit, is attached hereto as Exhibit A-1 and incorporated by reference.

10. As a result, removal of this suit is proper under 28 U.S.C. §1332(a) because the amount or matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

D. Consent to Removal of Defendants

11. Defendants consent to the removal of the case to this District and Division, as reflected by filing this Notice of Removal. 28 U.S.C. §1446(b)(2)(A).

E. Andrews County Suit court records are attached

12. True and correct certified copies of all pleadings, process, orders, and other filings in the Andrews County Suit are attached to this Notice as Exhibit "A", as required by 28 U.S.C. §§ 1446(a) and 1449.

F. Venue in this District and Division is Proper

13. Venue in this District and Division is proper under 28 U.S.C. §1441(a) because the 109th Judicial District Court, Andrews County, Texas, the state court where the state suit has been pending, is located in this District and Division. Furthermore, Plaintiff alleges in paragraph 6 of Plaintiff's Original Petition that: "Venue is proper in Andrews County, Texas pursuant to the general venue provision of § 15.002(a)(1) of the Texas Civil Practice and Remedies Code, in that all or a substantial part of the events or omissions giving rise to this cause of action occurred within Andrews County, Texas." (Ex. A-1). The subject collision occurred in Andrews County, Texas, which lies within this Federal Court's District and Division.

G. Notice of Notice of Removal and Notice of Filing Notice of Removal

14. Pursuant to 28 U.S.C. §1446(d), Defendants will promptly file a copy of this Notice of Removal and a Notice of Filing of Notice of Removal with the District Clerk of the 109th Judicial District Court, Andrews County, Texas, the Texas state court where the suit has been pending, and will give written notice thereof to all adverse parties.

15. Plaintiff demanded a jury trial in the Andrews County Case.

CONCLUSION

16. For the reasons stated above, removal of the Andrews County Suit to this District and Division is proper under 28 U.S.C. §§ 1441, 1446 and 1332(a) because this Court has diversity jurisdiction in accordance with 28 U.S.C. §1332(a) (1) in that the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

WHEREFORE, PREMISES CONSIDERED, Defendants request that the Court remove the action to the United States District Court for the Western District of Texas, Midland/Odessa Division.

Respectfully submitted,

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By: /s/ Christopher W. Weber
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on this the 19th day of July, 2019, I electronically filed the foregoing document with the Court's electronic filing system, and that a true and correct copy was served on the parties listed below through the electronic case filing system if they are registered and if the Notice of Electronic Filing indicates that the parties received it, and by service through U.S. regular mail to the parties if they are not so registered:

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